

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JENNA DEPUE,

Defendant.

Case No. 2:10-CR-109-KJD-PAL

Findings of Fact and Conclusions of Law

Before the Court is the Government's Motion for Entry of Order of Forfeiture as to Jenna Depue (#79). The time for Defendant's opposition has passed, and counsel for Defendant has advised the Court that no opposition will be filed (#80).

This matter comes before the Court on reassignment as directed by the Ninth Circuit (#75). The Government originally sought an order of forfeiture which was denied (#46). The Government then filed a motion to reconsider (#49) which was denied (#51). On appeal, the Ninth Circuit vacated and remanded the order denying imposition of a criminal forfeiture money judgment (#60). The court then reinstated its prior denial (#64). On appeal for the second time, the Ninth Circuit once again vacated and remanded the order, and ordered that the case be reassigned (#75).

That Order (#75), reads in pertinent part as follows: "[T]he district court is obligated to enter a forfeiture judgment against the defendant" "[E]ntry of a forfeiture judgment against Depue is mandatory [under the law] . . . and the district court erred in refusing to enter such

1 judgment” The question before this Court is not normative, but positive; not what the law
2 should be, but what it is. While the law often permits the exercise of judgment and discretion by
3 a judge, it can be wholly inflexible at times. Such is the case here.

4 **I. Findings of Fact**

5 On March 5, 2010, Defendant pled guilty to the following:

- 6 • She is guilty of conspiracy to commit mail fraud, wire fraud, and bank fraud,
7 specifically that
 - 8 ○ between approximately January 1, 2006 and May 31, 2007, Defendant
9 participated in a conspiracy with others to submit mortgage loan applications
10 to financial institutions to finance straw buyer real estate purchases in Nevada.
 - 11 ○ Defendant caused to be recruited straw buyers to purchase properties on
12 behalf of members of the conspiracy
 - 13 ○ Defendant caused material false information to be included on straw buyers’
14 loan applications so these buyers would qualify for loans for which they
15 otherwise would not qualify
 - 16 ○ Defendant caused the loan applications to be forwarded to financial
17 institutions for funding of the mortgages
 - 18 ○ Defendant caused loan applications to be sent to financial institutions, some of
19 which were federally insured, to fund mortgage loans to purchase various
20 properties in the names of straw buyers
 - 21 ○ as a result of this fraud, the financial institutions suffered an aggregate loss of
22 approximately \$348,000.

23 As part of her plea agreement, Defendant agreed to the forfeiture of \$1,060,000.00.

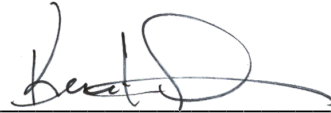
24 **II. Conclusions of Law**

25 As the Ninth Circuit noted, 28 U.S.C. 2461(c) permits the government to include notice
26 of forfeiture in an information issued against the defendant when forfeiture is authorized. If

1 convicted, the court is obligated to enter a forfeiture judgment against the defendant. See #75
2 citing United States v. Newman, 659 F.3d 1235, 1239-40 (9th Cir. 2011). Forfeiture was
3 authorized, and the Government included such notice in its criminal information, making entry
4 of the forfeiture order “mandatory.” See #75, citing Newman, 659 F.3d at 1239-40.

5 The forfeiture statutes require forfeiture of the proceeds of a defendant’s criminal
6 activities, in this case, the total amount of the original loans. Id. The Government has met all the
7 procedural and legal requirements to obtain a criminal forfeiture judgment and factually proved
8 the dollar amount. See #75.

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10 DATED this 9th day of December 2014.

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13 Kent J. Dawson
14 United States District Judge
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